

REMARKS

Status of the Claims

Claims 1, 2, 10-13, 16-22 and 41-88 were pending in the application.

Claims 16-22, 48-54, 61-67 and 75-81 have been withdrawn from consideration.

Claims 1-2, 10-13, 41-47, 55-60, 68-74 and 82-88 were rejected.

By way of this amendment, claims 1, 16, 44, 48, 61, 70 and 75 have been amended (of which amended claims 16, 48, 61 and 75 are withdrawn), and claims 2, 13, 17, 18, 47, 49, 50, 60, 62, 63, 68, 69, 74, 76, 77 and 83-88 have been canceled.

Upon entry of this amendment, claim 1, 10-12, 16, 19-22, 41-46, 48, 51-59, 61, 64-67, 70-73, 75 and 78-82 will be pending, of which claims 16, 19-22, 48, 51-54, 61, 64-67, 75 and 78-81 have been withdrawn from consideration.

Summary of the Amendment

Claim 1 has been amended to add the limitations of claim 2, which has been canceled in view of the amendment of claim 1.

Claims 13, 47, 60, 68, 69 and 74 have been canceled without prejudice.

Claim 44 has been amended to correct an obvious error in its dependency.

Claim 70 has been amended to change its dependency .

Claims 83-88 have been canceled in view of the cancellation of claim 2.

Withdrawn claims 16, 48, 61 and 75 have been amended to more clearly define the subject matter of the claims. Withdrawn claim 75 has also been amended to change its dependency.

Withdrawn claims 17, 18, 49, 50, 62, 63, 76 and 77 have been canceled without prejudice.

35 U.S.C. §112, first paragraph

New Matter

Claims 1, 2, 10-13, 41-47, 55-60, 68-74 and 82-88 stand rejected under 35 U.S.C. §112, first paragraph, as failing to comply with the written description requirement. It is asserted that

the claims contain subject matter which was not described in the specification in such a way to reasonably convey to one skilled in the relevant art that the inventors, at the time the application was filed, had possession of the claimed invention.

It is asserted that Applicants' amendment did not point out the support for the newly added limitation in claim 1 which reads "all or part of the CD80 [C] region," and that the specification as filed and original claims do not provide adequate support for the limitation. Applicants' earlier reference to the published PCT application for support was deemed no pertinent. The Office indicated that Applicant is required to refer to the support for the new limitations in the specification as filed.

Applicants respectfully point out that the instant application is a 371 US National stage application of a PCT application. The published PCT application is the specification as filed. Support for the limitation in claim 1 which reads "all or part of the CD80 C region" can be found, for example on page 6, lines 1-7, with the specific terminology being set forth on line 4. The specification similarly describes this feature on page 6, lines 17-19. The specification as filed supports the language in the pending claims. No new matter has been added.

Enablement

Claims 1, 10-13, 41-47, 55-60, 68-74 and 82-88 stand rejected under 35 U.S.C. §112, first paragraph, because it is asserted that the specification, while enabling subject matter in the claims referring nucleic acid molecule that comprises coding sequences for regions of CD80 or CD86 proteins, does not enable the claimed subject matter with respect to "fragments thereof."

Applicants respectfully disagree. To advance prosecution, however, claim 1 has been amended to delete reference to "fragments thereof." The claim as amended corresponds to claim 2, which was not rejected for failure to comply with the enablement requirement. In view of the amendment, the rejection of the claims is moot.

Claims 13, 47, 60 and 74 stand rejected under 35 U.S.C. §112, first paragraph, because it is asserted that the specification does not provide sufficient enabling disclosure for “a vaccine or attenuated vaccine” comprising a nucleic acid molecule of the invention.

Applicants respectfully disagree. To advance prosecution, however, claims 13, 47, 60 and 74 have been canceled and the rejection is moot.

Applicants respectfully request that the rejection of claims 1-2, 10-13, 41-47, 55-60, 68-74 and 82-88 under 35 U.S.C. §112, first paragraph, as applied to claims 1, 10-12, 41-46, 55-59, 70-73 and 82 be withdrawn.

Conclusion

The claims are in condition for allowance. Applicants respectfully request that the claims be allowed at this time. Further, Applicants respectfully request that the withdrawn claims be rejoined and allowed

A notice of allowance is earnestly solicited. Applicants invite the Examiner to contact the undersigned at 610.640.7855 to clarify any unresolved issues raised by this response.

The Commissioner is hereby authorized to charge any deficiencies of fees and credit of any overpayments to Deposit Account No. 50-0436.

Respectfully Submitted,

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